

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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<b>JOSEPH SIMMONS</b>  <div style="text-align: right;"><b>Plaintiffs,</b></div> <div style="text-align: center;">v.</div> <b>CITY OF PHILADELPHIA, et al,</b> <div style="text-align: right;"><b>Defendants.</b></div>	: : : : : : : : : : :	<b>CIVIL ACTION</b> <b>No. 22-cv-1644-JMG</b>       <b>JURY TRIAL DEMANDED</b>
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**DEFENDANTS', CITY OF PHILADELPHIA, COMMISSIONER BLANCH  
CARNEY, WARDEN MICHELE FARRELL, CORRECTIONAL OFFICER JESSIE  
WILSON, SERGEANT FITZGERALD DICK, SERGEANT ALFRED LEBESCO, AND  
LIEUTENANT LOVELL CRAWFORD'S, ANSWER TO PLAINTIFFS' FIFTH  
AMENDED COMPLAINT WITH AFFIRMATIVE DEFENSES**

Defendants City of Philadelphia, Commissioner Blanch Carney, Warden Michele Farrell, Correctional Officer Jessie Wilson, Sergeant Fitzgerald Dick, Sergeant Alfred Lebesco, and Lieutenant Lovell Crawford, through their undersigned counsel, hereby respond to Plaintiff's Fifth Amended Complaint and avers as follows:

**INTRODUCTION:**

1. Denied. The allegations in this paragraph pertain largely to a party other than Answering Defendants. To the extent a response is required, denied.
2. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
3. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
4. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.

5. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.

**PARTIES**

6. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
7. Admitted only that the Philadelphia Department of Prisons is a Department of the City of Philadelphia under the City Home Rule Charter.
8. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
9. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
10. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
11. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
12. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.

13. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
14. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
15. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
16. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
17. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
18. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
- 21.<sup>1</sup> The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.

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<sup>1</sup> Plaintiff's complaint labels the corresponding paragraph as 21; for consistency, Answering Defendants mimic the same numbering as the Complaint.

19. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
20. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
21. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
- 21.<sup>2</sup> Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
22. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
23. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
24. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.

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<sup>2</sup> Plaintiff's complaint labels the corresponding paragraph as 21; for consistency, Answering Defendants mimic the same numbering as the Complaint.

25. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.

**JURISDICTION AND VENUE**

26. This is a statement of jurisdiction to which the Federal Rules of Civil Procedure require no response. To the extent a response is required, denied.
27. This is a statement of jurisdiction to which the Federal Rules of Civil Procedure require no response. To the extent a response is required, denied.

**FACTS**

28. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
29. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
30. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
31. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
32. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
33. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.

34. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
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50. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
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54. Denied. The allegations in this paragraph pertain to a party other than Answering Defendants. By way of further response, the allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.

55. Denied. The allegations in this paragraph pertain to a party other than Answering Defendants. By way of further response, the allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
56. Denied. The allegations in this paragraph pertain to a party other than Answering Defendants. By way of further response, the allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. To the extent a response is required, denied.
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180. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

**COUNT I: FOURTEENTH AMENDMENT**

181. Answering Defendants incorporate all previous paragraphs as if fully stated herein.
182. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
183. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
184. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
185. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

186. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
187. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
188. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
189. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
190. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
191. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
192. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

**WHEREFORE**, answering Defendants deny that they are liable upon all causes of action declared upon and demand judgment in their favor, plus interest and costs.

**COUNT II: FOURTEENTH AMENDMENT MUNICIPAL LIABILITY**

193. Answering Defendants incorporate all previous paragraphs as if fully stated herein.
194. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
195. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

196. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
197. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
198. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
199. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
200. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
201. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
202. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

**WHEREFORE**, Answering Defendants deny that they are liable upon all causes of action declared upon and demand judgment in their favor, plus interest and costs.

**JURY DEMAND**

Answering Defendants demand a jury trial in this action.

## **AFFIRMATIVE DEFENSES**

### **FIRST AFFIRMATIVE DEFENSE**

Plaintiff's Amended Complaint fails to state a claim upon which relief can be granted against Answering Defendants.

### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations.

### **THIRD AFFIRMATIVE DEFENSE**

Answering Defendants assert that they are entitled to qualified immunity. At all relevant times, Defendants acted in good faith and within the scope of their discretionary authority. Their actions did not violate clearly established statutory or constitutional rights of which a reasonable person would have known.

### **FOURTH AFFIRMATIVE DEFENSE**

At all times relevant to the allegations, Defendants acted in good faith and with a reasonable belief that their conduct was lawful and necessary under the circumstances.

### **FIFTH AFFIRMATIVE DEFENSE**

Answering Defendants deny that any actions or omissions on their part were the proximate cause of the injuries and damages alleged by Plaintiff. Specifically, the alleged actions of Answering Defendants did not directly result in the harm claimed by Mr. Simmons.

### **SIXTH AFFIRMATIVE DEFENSE**

Plaintiff voluntarily and knowingly assumed the risks associated with his conduct, including any altercations with other inmates or correctional officers, and the consequences of his behavior within the correctional facility.



**SEVENTH AFFIRMATIVE DEFENSE**

Failure to Exhaust Administrative Remedies: Plaintiff's claims may be barred by his failure to exhaust available administrative remedies before filing suit, as required under the Prison Litigation Reform Act (PLRA). Plaintiff did not follow the proper grievance procedures before initiating this lawsuit.

**WHEREFORE**, Answering Defendants deny that they are liable upon all causes of action declared upon and demand judgment in their favor, plus interest and costs.

Respectfully submitted,

Date: March 25, 2025

BY: /s/ Emily M. Hoff  
Emily M. Hoff  
Assistant City Solicitor  
Attorney I.D. No. 330859  
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Philadelphia, PA 19102  
215-683-5362

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPH SIMMONS	:	
Plaintiffs,	:	
	:	CIVIL ACTION
	:	No. 22-cv-1644-JMG
v.	:	
	:	
CITY OF PHILADELPHIA, et al,	:	
Defendants.	:	JURY TRIAL DEMANDED
	:	

## CERTIFICATE OF SERVICE

I, Emily M. Hoff, Assistant City Solicitor, do hereby certify that a true and correct copy of the attached Answer to Plaintiff's Fifth Amended Complaint was filed via the Court's electronic filing system and is available for downloading.

/s/ Emily M. Hoff

**Emily M. Hoff**

Assistant City Solicitor

Attorney I.D. No. 330859

Date: March 25, 2025